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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,282	01/29/2001	Peter J. Allen	KCX-290 (15083)	9284

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09/23/2003

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EXAMINER

ALVO, MARC S

ART UNIT

PAPER NUMBER

1731

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/772,282	Applicant(s) ALLEN ET AL.	
	Examiner Steve Alvo	Art Unit 1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____                                    |

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The term "utilizing the pattern of reflected light to which the visual image corresponds to control paper formation in the web" was not originally disclosed, nor was it described in the specification in such a way as to reasonably convey to one skilled in the relevant art how the pattern is used to control the formation in the web.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 7-9 are rejected under 35 U.S.C. 103(a) as obvious over PARKER with or without HOUSTON et al or RULE, JR. or BIALKOWSKI with or without SHERLOCK® (specification, page 15, lines 5-8).

PARKER teaches measuring paper formation, e.g. flocculation, macro forming units or unstable streaks, and teaches using multiplier detectors, column 4, lines 60-64, and multiple light sources, column 7, lines 3-6, of a paper slurry on the paper machine wherein the light is reflected from the moving paper

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web (column 6, lines 40-44) and converted to an image by photo detectors (column 8, lines 7-8). It would have been especially obvious to use reflected light to measure paper formation as such is taught by HOUSTON et al or RULE, JR. (column 3, line 47) or BIALKOWSKI. See HOUSTON et al (Fig. 7, (200) and (100)) or RULE, JR. (Column 2, line, 66) for plural light sources. It would have been obvious to use a line scan camera as the photo detector of PARKER as such is taught by RULE, Jr., column 3, line 7) or BIALKOWSKI. PARKER teaches forming an image from reflected light in column 6, lines 40-44. The reflected light is capable of being observed by an operator or a camera. The photo detectors of PARKER do not substantially differ from the claimed digital camera, which would contain the same or similar photodiodes. Besides, the use of a camera as a light detector is well known in the art as evidenced by RULE, Jr. and BIALKOWSKI. The "lookers" of PARKER would convert patterns of reflected light to control paper formation. If necessary, the use of images, e.g. patterns, to control processes is known from SHERLOCK<sup>®</sup>. It would have been obvious to the artisan to use the known software of SHERLOCK<sup>®</sup> to control the process of PARKER.

Was SHERLOCK<sup>®</sup> (specification, page 15, lines 5-8) known and/or available to Applicant at the time of the invention?

Was PIRANHA<sup>®</sup> (specification page 14, line 12) known and/or available to Applicant at the time of the invention?

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over PARKER as applied to claim 1 above, and further in view of RULE, Jr.

It would have been obvious to use a line scan camera as the camera of PARKER as such is taught by RULE, Jr., column 3, line 7).

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Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over PARKER with or without HOUSTON et al or BIALKOWSKI as applied to claim 1 above, and further in view of RULE, Jr..

It would have been obvious to use a line scan camera as the camera of PARKER as such is taught by RULE, Jr., column 3, line 7).

Claims 6 and 10-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over PARKER with or without HOUSTON et al or RULE, Jr. or BIALKOWSKI as applied to claim 1 above, and further in view of ADMITTED PRIOR ART (specification, page 14, lines 8-13, page 11, lines 4-6, paragraph bridging pages 9 and 10, page 10, lines 9-21 and Request For Reconsideration, filed December 18, 2002, pages 1 and 2).

The use of a line scan camera would have been obvious as such is conventional in the art as evidenced by the ADMITTED PRIOR ART (specification, page 14, lines 8-13). It would have been obvious to run the paper web of PARKER at 4000 feet/min. as such is conventional in the ADMITTED PRIOR ART (specification, page 11, lines 4-6). It would have been obvious to use any convention formation fabric; as such a formation fabric is conventional in the art as evidenced by the ADMITTED PRIOR ART (paragraph bridging pages 9 and 10). The color would have been an obvious matter of choice. Obviously darker colors would provide not interfere with the reflection of light from the web. It would have been obvious to form a paper web having a weight of less than about 16 lbs/2880 ft<sup>2</sup> as such is conventional in the tissue art, see specification, page 10, lines 9-21. Claim 23 see, PARKER, Figure 5.

Claim 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over PARKER as applied to claim 1 above, and further in view of BIALKOWSKI.

It would have been obvious to adjust the web parameters based on the measurements of PARKER as such web adjustment is taught by BIALKOWSKI.

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Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over PARKER and HOUSTON et al or RULE, JR. as applied to claim 1 above, and further in view of BIALKOWSKI.

It would have been obvious to adjust the web parameters based on the measurements of PARKER as such web adjustment is taught by BIALKOWSKI.

Applicants' arguments with respect to the patterns of light are not convincing as such would have been obvious for the reasons set forth above. From the original specification the light images of the instant Application do not appear to differ from the images of the applied art.

When filing an "**Official**" FAX in Group 1730, please indicate in the Header (upper right) "**Official**" for papers that are to be entered into the file. The "**Official**" FAX phone numbers for this TC 1700 are:

**Non-Final Fax:** (703) 872-9310      **After-Final FAX:** (703) 872-9311.

When filing an "**Unofficial**" FAX in Group 1730, please indicate in the Header (upper right) "**Unofficial**" for Draft Documents and other Communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers. The "**Unofficial**" FAX phone number for this Art Unit (1731) is (703) 305-7115.

Any inquiry concerning this communication or earlier communications from the **primary examiner** should be directed to **Steve Alvo** whose telephone number is (703) 308-2048. The Examiner can normally be reached on Monday - Friday from **6:00 AM - 2:30 PM (EST)**.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Steve Griffin, can be reached on 703-308-1164.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Group receptionist** whose telephone number is **703-308-0661**.

MSA  
9/21/03

A handwritten signature in black ink, appearing to read 'S. Alvo', is positioned above the printed name and title.

**STEVE ALVO**  
**PRIMARY EXAMINER**  
**ART UNIT 1731**